

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Case No. 5:12-CV-791 (GTS/DEP)

v.

2004 DODGE DURANGO

GEOFFREY J.L. BROWN, Asst. U.S. Attorney, for the Government

ANDREW T. BAXTER, United States Magistrate Judge

ORDER and REPORT-RECOMMENDATION

This matter has been referred to me for Report and Recommendation by the Honorable Glenn T. Suddaby, U.S. District Judge. A Verified Complaint for Forfeiture in Rem of a 2004 Dodge Durango was filed on May 11, 2012. (Dkt. No. 1). The verified complaint listed all potential claimants for the property in question. (Dkt. No. 1, ¶ 30). Together with the verified complaint, a Warrant of Arrest in Rem was issued. (Dkt. No. 2). The Warrant of Arrest in Rem required the Marshal to seize the property and to serve notice upon all potential claimants for the property.

The Warrant of Arrest in Rem also provides that all persons asserting an interest in the defendant property must file a verified claim with the Clerk of the Court, pursuant to the Supplemental Rules for Admiralty or Maritime and Asset Forfeiture Claims, and must appear before the United States District Court at 10:00 a.m. on August 10, 2012 in Syracuse, New York, before the Honorable Glenn T. Suddaby. (Dkt. No. 2). The Warrant of Arrest in Rem also provides specific notice that the failure to properly file a claim and to appear at the appropriate time will result in “judgment by default . . . for the relief demanded in the complaint.” *Id.* at p.2.

The docket sheet in this action shows that the Verified Complaint for Forfeiture, together with the Warrant of Arrest in Rem was served on all the potential claimants listed in the Complaint. (Dkt. Nos. 4-6). The docket sheet also indicates that notice was published on an official government internet website, www.forfeiture.gov. (Dkt. No. 7).

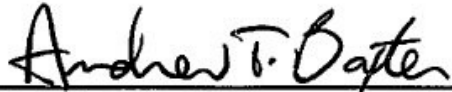
Judge Suddaby referred the duty of presiding over the return date of the Warrant of Arrest in Rem to me. Today, August 10, 2012, this court presided over the court appearance specified in the Warrant in Rem, and there was *no appearance by or on behalf of any person who claims an interest in this property*.

WHEREFORE, based on the findings above, it is

RECOMMENDED, that United States District Judge Glenn T. Suddaby sign the proposed order *nunc pro tunc*, submitted by the Assistant United States Attorney which provides for an **ORDER DIRECTING ENTRY OF AN UNCONTESTED JUDGMENT OF FORFEITURE**, and it is

ORDERED, that based on the nature of this proceeding, the Clerk *immediately* deliver this Report and Recommendation to the Honorable Glenn T. Suddaby for his consideration without the normal waiting of fourteen days.

Dated: August 10, 2012



Hon. Andrew T. Baxter
U.S. Magistrate Judge